

Western Australian Bar Association

President's Report 2013

Bar Council

The following members elected on 6 December 2012 comprised the Bar Council during 2013:

President:	Peter Quinlan SC
Vice President:	Matthew Howard SC
Members:	Stephen Davies SC Ros Fogliani Geoffrey Hancy Elspeth Hensler Mark Holler Belinda Lonsdale Tina McAulay Hylton Quail Sarah Russell Marco Tedeschi
Secretary	Tina McAulay (until September 2013, due to taking leave of absence) Sarah Russell (from October 2013)
Treasurer	Mark Holler

Disciplinary Committee

Laurie Levy SC was elected a member of the Disciplinary Committee at the December General Meeting held on 6 December 2012, joining Gail Archer SC and John Ley as other members of the Committee

Bar Council

Monthly Meetings

Bar Council met on 10 occasions between February and November.

Committees

Bar Readers' Course	Elspeth Hensler & Hylton Quail
Best Practice Forum	Mark Holler, Sarah Russell & Marco Tedeschi
CPD Autumn Festival	Matthew Howard SC
CPD Conference	Stephen Davies SC, Geoff Hancy & Belinda Lonsdale
Essential Trial Advocacy Course	Matthew Howard SC – Course Director
Finance	Mark Holler
Members' Welfare -	Peter Quinlan SC
Group Life Insurance	Peter Quinlan SC & Sarah Russell
Professional Standards Act Application	Peter Quinlan SC, Sarah Russell, Geoff Hancy, Ros Fogliani & Tina McAulay

Professional Indemnity Insurance
Pro Bono
Secretary

Peter Quinlan SC
Elspeth Hensler & Natasha Breach
Tina McAulay (until September)
Sarah Russell (from October)
Elspeth Hensler & Sarah Russell

Women at the Bar

Bar Readers' Course

The Bar Readers' Course (BRC) is central to the Association's commitment to promoting the highest standards of competence and ethical practice by persons choosing to practice as independent barristers. The BRC is an integral part of commencing practice at the Bar, and is designed to ensure that members meet the recommended Australian Bar Association standards.

The Association and our new members are indebted to the many members of the Bench and senior members of the Bar who willingly contribute their time and energy as Presenters and/or Course Coordinators. Their support is essential to the successful operation of the BRC.

Conducted over 6 weeks during May and June, 7 new members completed one or more of the modules of the BRC this year.

A function to mark the closing of the BRC, award certificates and present prizes to the best performed readers was held on 14 August. Congratulations once again to Max Beckerling who was awarded the Chief Justice's prize for the best performed reader in the Ethics, Evidence, and Jurisdiction and Procedure modules. There was a two-way tie in the Essential Trial Advocacy Course, with Matthew Curwood and Leigh Warnick awarded prizes for the best performed readers.

Sincere thanks to LexisNexis for their continued sponsorship of the BRC, and to all involved in the BRC, particularly Elspeth Hensler and Hylton Quail who were responsible for coordinating the BRC.

Essential Trial Advocacy Course

The Essential Trial Advocacy Course (ETAC) is conducted under auspices of the Australian Bar Association (ABA), with organisation of the course alternating between the WABA and the South Australian Bar Association (SABA).

The Association is extremely grateful to his Honour Chief Judge Martino for granting approval to use courtrooms and facilities at the District Court, during the Court's recess period, for this year's ETAC which was held from 24-28 June. The facilities are excellent, and are a significant factor in ensuring the success of ETAC.

There were 20 participants in total, comprising 8 from WA, 8 from SA, 1 from Tasmania, and 3 from the South Pacific (Kiribati*, Vanuatu* and Papua New Guinea), 2* of whom were sponsored by the ABA.

There were 11 coaches, comprising 7 from WA (Gail Archer SC, Katrina Banks-Smith, Stephen Davies SC, Ros Fogliani, Matthew Howard SC, Peter Quinlan SC and Sam Vandongen SC), 3 from SA and 1 from NSW.

Peter Holmes from Ferriers Hodgson in Adelaide, and Malcolm Field from Ferrier's Perth office, and Martin Langridge, Amy Hinson and Sarah Thorburn from Deloitte's in Perth assisted with the preparation of expert reports and attended at ETAC.

A pool of 23 volunteers (junior solicitors, articled clerks and law students) played the role of volunteers and/or acted as camera operators.

Justice Kenneth Martin and Justice Michael Corboy attended on the final day to act as judges at the mock trials.

My involvement as a “first time” coach provided an invaluable insight to, firstly, the time and energy involved in organising courses like the ETAC; second, the effort and commitment which members of the bench and senior members of the Bars have been prepared to make to assist participants and ensure the success of the course; and third and most importantly, the benefits gained by, and the genuine appreciation of, the participants.

Special thanks to Matthew Howard SC for his exceptional work as Course Director, Elspeth Hensler, who assisted by dealing with the accounting experts, and Kim Lendich, who met with volunteers who played the role of witnesses.

CPD Seminars

The Autumn Festival of CPD is now a regular feature in the Association’s CPD programme.

Held over 5 days during March, the Festival is a popular event that enables members who have not acquired the requisite 10 CPD points, to do so prior to the conclusion of the ‘CPD period’.

Many thanks to Matthew Howard SC for his work in arranging an excellent programme for the Festival.

CPD Conference

Following Bar Council’s review of CPD events offered by the Association, there was unanimous support for “triallying” a new format for the annual CPD conference.

The new format included a different time slot and venue: held on Level 31 Allendale Square, the conference commenced at noon on Thursday, 29 August, and concluded with a dinner, during which a final session on “*Ethics for Barristers*” wrapped-up what was, a very successful and well received conference.

The NIDA Workshops were a great success: aside from acquiring skills to enhance presentation and communication skills for professionals, the workshops revealed the latent comedic and acting talents of many members. More importantly, the workshops created a setting which brought members together in a truly collegiate manner.

That collegiality was also evident during exchanges following the presentation of excellent papers during dinner by Chris Zelestis QC, Craig Colvin SC, Laurie Levy SC and Katrina Banks-Smith.

Many thanks to all who participated as speakers, and to Stephen Davies SC, Geoff Hancy and Belinda Lonsdale for their work in compiling an excellent programme.

Best Practice Forum

The Association held its fourth Best Practice Forum on 13 June on *Written Advocacy*.

The forum included presentation of a discussion paper, followed by commentary on written advocacy by: Justice Edelman in the context of trial, Justice Murphy in appeals, and Craig Colvin SC from the Bar's perspective. An open session led and moderated by the Chief Justice concluded the Forum.

Sincere thanks to Mark Holler, Sarah Russell and Marco Tedeschi for their work on the discussion paper, and in coordinating a Forum which was well received and supported by members of the judiciary, the bar and experienced solicitors.

A statement of best practice principles, incorporating comments received from the judiciary and attendees, is still in the process of being finalised and published on the Association's website.

Pro Bono

The work undertaken by Elspeth Hensler and Natasha Breach in assessing and coordinating pro bono requests received by the Association, is outstanding. Their efforts, for which we are truly grateful, ensure the prompt and efficient processing of requests.

The Association has continued to work closely with Law Access and community legal centres in coordinating and providing pro bono assistance.

Elspeth has also represented the Association at meetings convened by the Law Society and others to consider the feasibility of establishing a pro bono clearing house in Western Australia to better coordinate pro bono services.

The response from members to pro bono requests is commendable; it is heartening to note that we are rarely required to re-circulate requests due to a lack of response, and more often than not receive multiple offers of assistance from members.

In 2013, of the 90 formal inquiries received, assistance was provided in 35 matters.

Sincere thanks to all members who offered and/or provided assistance in these matters.

New/Junior Members

Earlier this year Bar Council determined that the Association should explore new ways in which junior/new members of the Bar might be better supported in transitioning to practise as a barrister and to building a practice.

As part of that decision, Bar Council considered it would be useful to seek the views of members who have joined in recent years, as to ways they consider the Association might better serve the needs of members.

Key issues which emerged from an informal meeting of new/junior members included:

- support for providing a referral service;

- intermediate level advocacy training;
- establishing a practice manual – review of current prospective members guide;
- business development training.

I pleased to report that the issues referred to above have been, or are in the process of being, implemented.

Referral Scheme

Following approval of a Referral Protocol by Bar Council, which sets out the basis upon which the Association will assist solicitors to access the services of members, details of the Referral Scheme (Scheme) was announced to members, and conveyed to attendees at a Law Society Forum of sole practitioners/small firms held in May.

Since establishing a register of members prepared to participate in the Scheme, the Association has received a relatively small number of requests from legal practitioners for referrals, although it has proved to be administratively manageable and a useful adjunct to other means of access to the Bar.

Representation of Practitioners before the LPCC and SAT

In 2011, the Association established a register of members available to advise and appear for practitioners who are the subject of complaint to the LPCC and SAT.

During the past year, the Association received requests from 11 legal practitioners seeking assistance in relation to complaints to the LPCC and SAT.

WABA Membership of Committees

Australian Bar Association – Women at the Bar (Elsbeth Hensler)
 Legal Profession Reform Committee (Hylton Quail)
 ATO Legal Practitioners Forum (John Hockley)
 LCA Judicial Issues Working Group (Kanaga Dharmananda SC)
 Old Treasury Building Library (John Hockley)

Functions

- LSWA/WABA High Court Dinner held on 12 September at the Duxton Hotel
- Bar and Bench Dinner held on 15 November at Acqua Viva on the Swan
- President’s “At Home” to be held on 8 December.

Judicial Welcomes and Special Court Sittings

Representing WABA at the welcome ceremony for Justice John Walters and Justice Susan Duncanson, Family Court, 13 February 2013 (John Hedges).

Speech to farewell his Honour Judge John Wisbey, District Court, 2 May 2013 (Peter Quinlan SC)

Ceremonial sitting welcome Chief Justice Allsop, Federal Court, 13 May 2013 (Peter Quinlan SC)

Speech on appointment of his Honour Judge Mark Herron, District Court, 24 July 2013 (Peter Quinlan SC)

Ceremonial sitting to welcome Justices Gageler and Keane, High Court, 11 September 2013 (Peter Quinlan SC)

Submissions

Submissions on the following topics were made on behalf of the Association.

- Proposed Amendment to the Supreme Court Rules – Judicial Review of Administrative Decisions
- Proposed Supreme Court Accommodation
- Law Reform Commission Discussion Paper on Representative Proceedings
- Law Society Paper on the Appointment of Senior Counsel
- District Court – Amendment of Rule 44G in relation to Inactive Cases list.
- Proposed amendments to the District Court Rules – Complex Personal Injuries Cases.
- District Court – New Procedures re Criminal Transcripts
- Appointment of Judges to the Supreme Court
- Contribution to ABA Submission to Productivity Commission - Inquiry into Access to Justice Arrangements

New Members

The following new Members were elected to the Association:

Philip James VINCENT
Matthew CURWOOD
Adam Kenneth SHARPE
John William FICKLING
Anne Isabel DURACK
Robert Andrew NIEMANN *
Max Delius BECKERLING
Wayne Carl John ZAPPIA
Terry MURPHY SC *
Neville Grant ROCHOW SC *
Ian NEIL SC *
Mark LINDSEY-TEMPLE
Gregory John PYNT
Talitha Jane Mary FISHBURN *
Raelene Joyce WEBB QC
Albert MONICHINO SC *
Nathan John LANDIS
Robert James Shenton FRENCH
Robert Douglas McCABE
Jonathon Nigel LEEK
Clinton Peter Kevin RUSSELL
Kevin James O'TOOLE

(* Interstate Member)

Judicial Members

Judge Mark Herron and Justice Melanie Sloss were elected as Judicial Members.

Honorary Members

The Hon Neville Owen was elected as an Honorary Member.

Membership

There are currently 235 members, of whom 201 are local members. Of the local members, there are 40 women and 161 men. There are 3 women and 28 men practising as Senior Counsel in Western Australia who are members of the Association.

Group Life Insurance Scheme

The Suncorp Group Life Insurance Scheme (Scheme), implemented by the Association in July 2012, continues to be available to new members.

Bar Council resolved to support a proposal to increase the level of cover from \$250,00 to \$350,000, however, Suncorp and other participating Bars decided to defer consideration of an increase in the level of cover until 2014.

Effective from November 2013, new members are informed of their entitlement to the Scheme, the premium for which will be added (as a separate item) to the annual subscription invoices issued to members. If new members do not wish to participate, they may opt out.

Western Australian Barristers' Rules

At a Special General Meeting held on 30 October 2013, a motion to amend the Rules was unanimously carried.

Application to the Professional Standards Council

A draft application for approval of a scheme under the *Professional Standards Act 1997* (WA) was lodged with the Professional Standards Council on 24 October 2013.

Many thanks to Sarah Russell, Ros Fogliani, John Ley, Geoff Hancy, GiGi Visscher and Debbie Cole, for their assistance and work on the draft application.

Sponsorship

LexisNexis continue their involvement as sponsor of the Bar Readers' Course. We are grateful for their ongoing support.

Over the past 5 years, an annual contribution has been made to AustLII, on behalf of the Association. This year, Bar Council resolved to approve an increase in the level of the contribution by the Association from \$3,000 to \$5,000.

Finances

Many thanks to Mark Holler for his work as Treasurer. Though still modest, the Association's financial position remains sound.

General Meetings

A special General meeting of the Association was held on 28 June. The Association's Annual General Meeting was held on 30 October.

Australian Bar Association

Matthew Howard SC attended a meeting of the Australian Bar Association (ABA) on 8 December 2012, and Peter Quinlan SC attended ABA meetings held on 4 February, 23 March, 11 May, 27 July, 28 September and 26 October.

Law Council of Australia

Peter Quinlan SC attended a Directors' meetings of the Law Council on 9 March. Chris Kendall and Craig Slater each attended separate Directors' meetings as an alternate Directors' for the President.

Members of Council

I record my thanks to all members of Council for all their hard work and support during the year.

Peter Quinlan SC
President